

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NORTH FOREST DEVELOPMENT, LLC,

Plaintiff,

v.

ORDER
06-CV-378A

WALDEN AVENUE REALTY ASSOCIATES,
LLC, et al.,

Defendants.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On November 14, 2008, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that plaintiff and defendant, Roberts, Shackelton & Boy Architects and Engineers P.C.'s joint motion to dismiss with prejudice be granted, and that Walden's cross-motion to dismiss be denied, without prejudice to a motion for summary judgment.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, plaintiff and defendant, Roberts, Shackelton & Boy Architects and Engineers P.C.'s joint motion to dismiss with prejudice is granted, and defendant Walden Avenue Realty Associates, LLC's cross-motion to dismiss is denied, without prejudice to a motion for summary

judgment.

The case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: December 11, 2008